IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY THIRD DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 10219 of 2004

Between:

Umesh Hotkar S/o. Siddu Hotkar, student,
R/o.13-3-566, Jiaguda, Hyderabad.

... PETITIONER

AND

1 The Commissioner of Police, City of Hyd, Bashir Bagh, Hyd.
2 The Asst. Commissioner of Police, West Zone, Hyd.
3 The Inspector of Police, Kulsumpura P.S., Hyd.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction more particularly a writ of Habeas corpus and direct the Respondents to produce the detenu namely Ramesh Hotkar S/o. Sidduji Hotkar, 28 years R/o. H.No. 13-3-568/A, Imampura, Jiaguda, Hyd, from detention before the Hon'ble High Court and set him at liberty forthwith and consequently an interim direction be passed suspending the order of detention No.S.B.(i) No.3/PD.DG/S-1/2004 dt. 13.2.2004 till the final disposal of the writ petition.

Counsel for the Petitioner: MR.MOHD.QASIM

Counsel for the Respondents: THE ADVOCATE GENERAL.

The Court at the admission stage made the following :

ORAL ORDER: (Per Hon'ble Smt.Justice T.Meena Kumari)

1) This Writ Petition is filed questioning the detention order dated 13.2.2004 passed by the first respondent, and seeking a direction to the respondents to produce the detenu-Ramesh Hotkar S/o.Sidduji Hotkar, now detained in Central Prison, Chanchalguda, Hyderabad, before this Court, and to release him forthwith after declaring his detention as illegal and void.

2) It is the case of the petitioner, who is the brother of the detenu, that by an order dated 13.2.2004 made under Section 3 (2) of the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-Offenders, Goondas, Immoral Traffic Offenders and Land-Grabbers Act, 1986 (for short "the Act"), the detenu was ordered to be detained with a view to prevent him from acting in any manner prejudicial to the maintenance of public order, as he is a "*goonda*" defined under the Act.

3) The learned counsel for the petitioner contended that the order of detention has been passed against the detenu mainly basing on the sole incident, being Crime No.70 of 2003 of Kulsumpura P.S. that took place on 18.6.2003, and except that, there was no other incident occurred affecting the conduct of the detenu to term him as "*goonda*" and to invoke the provisions of the Act. It is further contended that though in the grounds of detention it was stated that the detenu was involved in several cases relating to the year 1997, 1998 and 2000, there was no case registered against him during the last three years, except the crime of the year 2003, which was the sole incident and which cannot be a basis for his detention.

4) The first respondent filed the counter stating that there are cases pending against the detenu, being Crime No.45 of 1997 of Kulsumpura P.S., registered under Sections 147, 148, 302 r/w. 149 of IPC, Crime No.108 of 1997 of Ramachandrapuram P.S., registered under Sections 365 and 302 of IPC, Crime No.120 of 1998 of Karkhana P.S., registered under Section 392 of IPC, Crime No.83 of 1998 of Kulsumpura P.S., registered under Section 382 of IPC, and Crime No.58 of 2000 of Kulsumpura P.S., registered under Section 384 of IPC, and Crime No.70

of 2003 of Kulsumpura P.S., registered under Sections 427, 448, 506 of IPC, and a rowdy sheet was also opened against him, and that as the activities of the detenu have become prejudicial to the maintenance of the public order, the first respondent was bound to term him as “goonda” and accordingly, invoked the provisions of the Act.

5) On a reading of the grounds of detention, it has to be observed that the crimes registered against the detenu are of the year 1997, 1998 and 2000. The only basis for passing the detention order is the sole incident that took place in the year 2003. There is no other material placed before this Court by the respondents to show that the community at large was adversely affected due to the activities of the detenu and that it has become difficult for the respondents to maintain the public order.

6) When the matter has come up today, the counsel for the petitioner filed the affidavit of the detenu to the effect that he will not indulge himself in any of the illegal activities. The affidavit filed by the detenu is made as a part of the record. Under the above circumstances and in the absence of any other material placed before the Court, we are of the opinion that the detention order can be quashed.

7) In view of the observations made in the paragraphs supra, we quash the detention order dated 13.02.2004, and direct the respondents to release the detenu forthwith, if he is not required in any other case, after following due procedure.

8) The Writ Petition is accordingly allowed.

(T.MEENA KUMARI, J)

(CH.S.R.K.PRASAD, J)

23rd JULY, 2004.

Pan/kvsn

To

1. The Commissioner of Police,

   City of Hyderabad, Bashir Bagh, Hyderabad.
2) The Assistant Commissioner of Police,

   West Zone, Hyderabad.
3) The Inspector of Police, Kulsumpura P.S., Hyderabad.

4. Two copies to the Advocate General, High Court buildings

   Hyderabad.(OUT)

5) Two C.D.copies.